

# TALCB Bulletin



TALCB was created by an act of the Texas Legislature in 1991 to license, certify and regulate real estate appraisers in Texas under state and federal laws. In 2011, TALCB's jurisdiction was expanded to register and regulate appraisal management companies.

**INSIDE THIS ISSUE: Review Work: What to Watch Out For (page 1-2) Disciplinary Actions (page 2) From the Chair (page 3) AMC Committee Appointments Announced (page 4) Rule Actions from the August Meeting (page 5)**

## Review Work: What to Watch Out For

Appraisers are sometimes requested to complete an appraisal review for their client. Rather than performing an actual appraisal, the scope of work of a review focuses on developing an opinion about the quality of another appraiser's work. Completing this type of assignment carries with it different obligations and potential pitfalls. Since slight changes in the client's needs impact the scope of work and assignment requirements, every appraiser should give careful thought to exactly what their obligations are under the law and the Uniform Standards of Professional Appraisal Practice (USPAP) and how they will address these needs before accepting such assignments.

### Is it Just a Review?

The first thing to consider is whether the review assignment is limited to developing an opinion about another appraiser's work, or also includes developing your own opinion of value.

If the assignment involves strictly developing an opinion about the quality of the other appraiser's work, then an appraiser's compliance obligations will include only USPAP Standard 3. USPAP

Standard 3 prescribes the development and report writing steps appraisers must take to complete the review in compliance with USPAP.

If the client is also seeking a reviewer's opinion of value, however it is expressed, then the law also requires compliance with USPAP Standard 1, in addition to Standard 3. See USPAP 2016-17, Standard 3-3(c), pg. 32, ln. 990-1015. Be careful at this juncture. Developing an opinion of value is defined broader than you might think. If one agrees with, disagrees, indicates the value is too high or low, within an acceptable range, inflated, undervalued etc., these are all characterizations that equate to developing an opinion of value and will trigger the obligation to comply also with Standard 1. Read Advisory Opinion 20 ("An Appraisal Review Assignment That Includes the Reviewer's Own Opinion of Value") for a detailed explanation of when this additional obligation is triggered and how to satisfy it.

1. Remember that reporting requirements for such an opinion of value are handled in Standard 3 and not Standard 2.
2. An "appraisal" is defined as "an opinion of value" or "the act or process of developing an opinion of value." Tex. Occ. Code § 1103.003(1).
3. An "appraisal review" is defined as "the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment. The term does not include an examination of an appraisal for grammatical, typographical, mathematical, or other similar administrative errors that do not involve the appraiser's professional judgment, including compliance with the elements of the client's statement of work." Tex. Occ. Code §§ 1104.003(4) and 1103.003(2-a).

## Review Work: What to Watch Out For Cont'd

### Do I Need a License to do this?

The second important distinction to consider before accepting a review assignment is whether a license to perform the review is required in Texas. This is a frequent question TALCB staff receives. The answer depends on the specifics of the assignment. Keep in mind that, in Texas, the law requires anyone performing an appraisal to be licensed by the Board or have other legal authority to perform the appraisal (i.e., be an employee of a county appraisal district). See Tex. Occ. Code § 1103.201. If a review assignment also includes developing value opinions, then a Texas license will be required. But there is no similar licensing requirement for preparing an appraisal review. With one specific exception (addressed below), if you are preparing a pure appraisal review without developing any opinion about value, then you do not need to obtain a license from the Board. Remember, USPAP broadly defines what constitutes developing a value opinion, and this definition is explained in more detail in Advisory Opinion 20. Be careful not to misjudge whether you are developing a value opinion and therefore need a license. Also remember that Texas law requires all license holders to comply with USPAP when preparing an appraisal review. See Tex. Occ. Code § 1103.405. So, if you already hold a Texas license, you must still comply with USPAP Standard 3 when performing an appraisal review. If you are unsure whether you need to obtain a license, consider consulting an attorney or talking with a more experienced appraiser, mentor or USPAP instructor. You may also contact the Board staff to inquire further.

### What if My Review is for an AMC?

Normally, performing a pure appraisal review (i.e. without any value opinion) does not require holding a license from the Board. However, when the review is being performed for a Texas registered AMC, you may need to obtain a Texas license. Section 1104.155 of the Texas Occupations Code requires an AMC to perform periodic appraisal reviews on the work product of their panel when the AMC is registered and operating in Texas. The purpose of the review is to ensure the panel member's appraisal work product complies with USPAP. Those appraisers hired to perform this specific type of appraisal review for an AMC must be licensed or certified in Texas before doing so. See Tex. Occ. Code § 1104.153.

### What to Remember?

- If you are already licensed in Texas and conducting a review appraisal, state law requires you to comply with USPAP Standard 3.
- If you are also developing your own opinion of value, you will need to comply with USPAP Standard 1 as well.
- Usually, if you conduct only an appraisal review, you do not need a license in Texas.
- However, you will need a Texas license if:  
Your review appraisal includes developing an opinion of value; or  
The review appraisal is performed for an AMC to satisfy its periodic review obligations for panel members under Texas Occupations Code § 1104.155.

## TALCB Enforcement Actions

The Texas Appraiser Licensing and Certification Board publishes their enforcement actions regularly on [the TALCB website](#). To read the reports please go to the TALCB website and click on, public and disciplinary actions.



Chair, Jamie Wickliffe

## From the Chair...

The Board had its regular quarterly meeting on August 19<sup>th</sup>. We received progress reports from the Commissioner and from each of the five Division Directors. With the current level of federal activity in both policy making and rule proposals, the staff and Board have been quite busy since we last met. In

addition to updates from staff, we also received reports from three Board committees on their progress between meetings. And we considered a dozen pending issues connected to disciplinary matters, approving several negotiated Agreed Orders. We were pleased to hear that Governor Abbott reappointed Sara Jones Oates and Larry McNamara to the AMC Advisory Committee, and also added new appointees Tony Pistilli and Angie Guerra. More details are provided later in this newsletter.

We welcomed our new Director of Staff & Support Services – Priscilla Piphio, who acts as the agency's Chief Financial Officer. Working with the Commissioner, strong financial results were reported for FY2016, and a new budget was proposed for FY2017. Due to continued careful financial management, we approved measures that reflect both strength and our commitment to lower license fees when prudent. The approved budget adds to our reserves, and would reduce Appraisal Management Company license renewal fees by \$300 for a two-year term, as well as cutting panelist add/drop fees from \$10 to \$5. We published for comment a corresponding rule that, if approved, will become effective on January 1, 2017.

We approved rules implementing fingerprint-based background checks for all appraisers at each license renewal after January 1, 2017. We proposed a rule amendment that would allow the Board to give an

applicant for a new Texas credential some credit for prior experience as evidenced by a prior credential, even if report files are not available due to reasonable records retention practices. An applicant would still need to demonstrate current competence in USPAP compliance with a body of recent work from which the Board can sample. This rule is just one way the Board seeks to remove barriers while promoting sound regulatory practices.

The timing required to respond with official comments to federal initiatives proposed by the Appraisal Subcommittee (ASC), and the Appraiser Qualifications Board (AQB) require the agency staff to work closely with the Executive Committee to ensure our inputs accurately reflect Texas policy preferences for necessity, balance, simplicity and transparency. We also try to collaborate with and incorporate any consistent consensus among our license holders by constant interaction with the Foundation Appraiser Coalition of Texas (FACT) and the Association of Texas Appraisers (ATA). Furthermore, we also exchange insights by active participation with the Association of Appraiser Regulatory Officials (AARO), and regular interaction with national organizations such as the Appraisal Institute (AI), the National Association of Appraisers (NAA), and Real Estate Valuation Advocacy Association (REVAA). Our ongoing goal is to be actively aware and relevant, influencing regulatory developments to shape sound public policy.

This fall we will continue to work with the professional associations of our license holders to be fully prepared to address the key issues we anticipate for the 2017 legislative session. We are also working closely with TREC to develop valuation related input for the inaugural Single Family Residential Real Estate issues summit, which will bring together professionals and regulators from across the industry to explore ways to reduce barriers to an effective and flourishing market for home owners. More to come!

Our next meeting will be held on Friday November 18<sup>th</sup> at 10AM at our HQ building in Austin. We always welcome you to join us, or to tune in to our meeting simulcast on the agency website to stay informed.

### IMPORTANT DATES TO REMEMBER

TALCB Board Meeting—November 18

*Check the TALCB website regularly for postings of all of our upcoming meetings.*

## Governor Abbott Appoints Four to the AMC Advisory Committee

The Texas Appraiser Licensing & Certification Board (TALCB) is pleased to announce the appointment of Tony Pistilli and Angelica (Angie) Guerra to the Appraisal Management Company (AMC) Advisory Committee with terms to expire in January 2018. Sara Oates and Larry McNamara were reappointed to the Committee with terms expiring in 2017. The Vice-Chair of TALCB, James Jefferies, serves as the chair of the AMC Advisory Committee. The Committee advises the Board on all matters related to Appraisal Management Company regulation.

James "Tony" Pistilli of North Richland Hills has been appointed as an industry member of the Committee. He is currently Vice President and Chief Appraiser at Xome Settlement Services. A veteran certified residential appraiser with over 25 years of appraisal experience, he is responsible for regulatory training and operational compliance for appraisals and broker price opinions. Pistilli is a certified USPAP instructor and received a Bachelor of Arts in Political Science from Augsburg College in Minneapolis.

Angelica (Angie) M. Guerra of Sugar Land has been appointed as a public member of the Committee. She currently works for the Coca-Cola Company's Minute Maid business unit as Senior Paralegal. She has over 15 years of legal experience and supports the Value-added Dairy

and Natural Health Beverages management team, along with the Venturing and Emerging Brands/Competition law leadership team. Guerra earned a Bachelor of Arts in Political Science from Texas A&M University-Kingsville.

Sara Jones Oates of Austin has been reappointed as an industry member of the Committee. She has been a Texas Certified General Real Estate Appraiser since 2003. She is the owner of Total Appraisal Management. She is an associate member of the National Association of Independent Fee Appraisers and an officer of the Foundation Appraisers Coalition of Texas (FACT). Oates received her bachelor's degree in government from the University of Texas at Austin.

Lawrence J. McNamara of Dallas has been reappointed as a public member of the Committee. An attorney in private practice with Ford Harrison LLP, he is a member of the State Bar of Texas, the American Bar Association, the Dallas Bar Association, and a fellow of the Dallas Bar Association Foundation. McNamara received a Bachelors of Arts in History and Government from Illinois College, and a Juris Doctor from Vanderbilt University Law School.

The Board thanks the appointees for their willingness to serve on this important committee. The location and time of all AMC Advisory Committee meetings will be posted on the TALCB website at [www.talcb.texas.gov](http://www.talcb.texas.gov)

## Texas Department of Transportation (Right of Way Division) Request for Proposal for Appraisal Services

The Texas Department of Transportation (TxDOT) is posting a Request for Proposal (RFP) for Professional Real Estate Appraisal Services (PREAS) for individuals licensed as Certified General Appraisers or Certified Residential Appraisers by the Texas Appraiser Licensing and Certification Board (TALCB).

Respondents to the RFP must be individual Certified General Appraisers or Certified Residential Appraisers

The Scope of work includes Real Estate Appraisal Services, Appraisal Review Services, Real Property Consulting (no value opinion) and Preparation and Testimony Services in connection with the acquisition of right of way parcels necessary for transportation projects.

Depending upon the results of evaluations, it is the intent of TxDOT to award contracts to each respondent that reaches a minimum threshold score of 70% of the total possible points. Each contract will be awarded in the amount of seven hundred-fifty thousand dollars with a 2-year term. Award of a contract is not a guarantee of work. The deadline for submission of proposals is November 28, 2016

at 12:00 Noon (CST) at the TxDOT Right of Way Division Office, 118 East Riverside Drive, Austin, Texas 78704.

The [RFP and Fee Schedule Worksheet Attachment](#) may be downloaded after 12:00 noon on October 3, 2016.

A public Pre-proposal Conference and WebEx, neither of which is mandatory, are scheduled for October 17, 2016 at 9:30am (CST) at the Texas Department of Transportation, Austin District Office, at 7901 N. I-35, Building 7, Hearing Room, Austin, Texas 78753. Persons attending by **WebEx** will need to send an email to the following address: [david.wilson@txdot.gov](mailto:david.wilson@txdot.gov)

Persons with special needs or disabilities who plan to attend this meeting and require auxiliary aids or services are requested to contact Charlie Grote at (512) 416-2910 or [charles.grote@txdot.gov](mailto:charles.grote@txdot.gov) at least five (5) working days prior to the meeting so that appropriate arrangements can be made.

Persons attending the pre-proposal conference must print a copy of this RFP for their use. **Copies will not be provided** at the pre-proposal meeting.



## Rules Actions at the August Board Meeting

The Board took the following rules and forms actions at its meeting on August 19, 2016. You may review the full text of all rules actions on the [Rules and Laws section of the TALCB website](#).

### ADOPTED RULES

The Board adopted amendments to the following rules at its meeting on August 19, 2016. These amendments will be effective January 1, 2017, to coincide with the effective date of the new criteria from the Appraiser Qualifications Board (AQB).

#### 22 TAC §153.5, Fees

The amendments add a reference to the fee for voluntary appraiser trainee experience reviews previously adopted by the Board in 22 TAC §153.22 at its meeting on February 19, 2016. The amendments also adopt a new fee for fingerprint-based criminal history checks or other related services as recommended by the Working Group for AQB Criminal History Check Criteria.

#### 22 TAC §153.9, Applications

The amendments implement fingerprint-based criminal history checks for license applicants.

#### 22 TAC §153.12, Criminal History Checks

As recommended by the Working Group for AQB Criminal History Check Criteria, the new rule implements fingerprint-based criminal history checks to comply with criteria adopted by the AQB.

#### 22 TAC §153.15, Experience Required for Licensing

The Board withdrew and repropounded amendments to this rule. See below under "Proposed Rules."

#### 22 TAC §153.16, License Reinstatement

The amendments implement fingerprint-based criminal history checks for applicants who apply for license reinstatement.

#### 22 TAC §153.17, Renewal or Extension of License

The amendments implement fingerprint-based criminal history checks for license holders when renewing their license.

#### 22 TAC §153.23, Inactive Status

The amendments implement fingerprint-based criminal history checks for license holders with an inactive license and license holders who seek to renew an expired license on inactive status.

#### 22 TAC §153.25, Temporary Out-of-State Appraiser License

The amendments clarify the requirements an applicant must satisfy when applying for a temporary out-of-state license.

#### 22 TAC §153.27, License by Reciprocity

The amendments implement fingerprint-based criminal history checks for applicants who apply for or renew a license by reciprocity.

### PROPOSED RULES

The Board proposed amendments to the following rules at the Board meeting on August 19, 2016. These proposed amendments will be on the agenda for adoption by the Board at the next Board meeting on November 18, 2016. You may review the full text of the proposed amendments on the Rules and Laws section of the TALCB website. Written comments on the proposed amendments may be sent to [general.counsel@talcb.texas.gov](mailto:general.counsel@talcb.texas.gov) and must be received before 5:00pm on Friday, October 28, 2016 to be included in the materials for the November meeting. After that date, comments must be made in person at the meeting.

#### 22 TAC §153.15, Experience Required for Licensing

The Board repropounded amendments to this rule based on a revised interpretation from the Appraisal Subcommittee (ASC). The proposed amendments clarify the criteria required for awarding experience credit for applicants and license holders. The amendments also remove redundant language and reorganize this section to improve readability.

#### 22 TAC §159.52, Fees

The proposed amendments reduce the renewal fee for appraisal management companies by \$300 per two-year license renewal period and reduce the fee to add or remove an appraiser from an AMC panel from \$10 to \$5. The Board proposes these AMC fee reductions as part of its budget for fiscal year 2017.

#### 22 TAC §159.161, Appraiser Panel

As recommended by the Appraisal Management Company (AMC) Advisory Committee, the proposed amendments allow the Board to remove an appraiser from an AMC's panel without any charge to the AMC if the Board suspends or revokes the appraiser's license. The proposed amendments also clarify when an appraiser will be removed from an AMC's panel after the appraiser's license expires.

#### 22 TAC §159.201, Guidelines for Revocation, Suspension or Denial of a License

As recommended by the Working Group for AQB Criminal History Check Criteria and the Appraisal Management Company (AMC) Advisory Committee, the proposed amendments allow an AMC to conduct additional criminal history checks beyond those required by the Board, so long as an AMC does not require an appraiser to pay for or reimburse an AMC for the additional criminal history checks.